

Minutes of the Telephonic Meeting of the
Arizona Game and Fish Commission
Wednesday, March 29, 2006 – 10:00 a.m.
Arizona Game and Fish Department
2221 W. Greenway Road
Phoenix, Arizona 85023

PRESENT: (Commission)

(Director's Staff)

In person:
Chairman Joe Melton
Commissioner Michael Golightly
Commissioner Bob Hernbrode

In person:
Director Duane L. Shroufe
Deputy Director Steve K. Ferrell

Via telephone:
Commissioner William McLean
Commissioner Hays Gilstrap

Via telephone:
Assistant Attorney General Jim Odenkirk

Chairman Melton called the meeting to order at 10:06 a.m. Director Shroufe conducted roll call confirming that all five Commissioners were present and then announced several Department staff attendees, which included Tony Guiles, Legislative Liaison and Mike Senn, Assistant Director, Field Operations. This meeting followed an agenda dated March 29, 2006.

* * * * *

1. Strike-Everything Amendment to Senate Bill 1291 that Relates to Shooting Ranges Under Commission Jurisdiction and Strike-everything Amendment to House Bill 2686 Related to Off-Road Highway Vehicles

Presenter: Anthony Guiles, Legislative Liaison

Mr. Guiles briefed the Commission on the proposed strike-everything amendment to Senate Bill 1291 that relates to shooting ranges under Commission jurisdiction and the proposed strike-everything amendment to House Bill 2686 related to off-road highway vehicles. The Commission received a copy of the strike-everything amendment to SB1291 for review prior to this meeting. This amendment would prohibit the Commission from allowing a political subdivision of the state to operate or maintain a Commission owned shooting range. This amendment was offered by Representative Gorman, which includes District 6, the Anthem district in near proximity to the Ben Avery Shooting Facility (BASf). This would not affect anything currently in place with any political subdivisions, but could affect future partnering with counties or cities in regards to shooting ranges.

Chairman Melton asked for the definition of a political subdivision, to which Mr. Guiles stated that subdivisions included counties, cities, towns and school districts, or anything below a state agency.

Mr. Guiles further explained the process of strike-everything everything and stated that this amendment would be offered at 1:30 p.m. this afternoon in the House Appropriations Committee.

The Commission discussed the potential effects this legislation would have on the Commission's ability to operate shooting ranges.

Commissioner Gilstrap shared with the Commission his conversation with Representative Gorman and his understanding of the rationale for this legislation: 1) The National Rifle Association, in an effort to support the Phoenix bond issue, relayed to Representative Gorman that there were additional funds in the bond, under the law enforcement part and not under the open space BASF part, to expand the shooting facility for law enforcement on the north side of the mountain at BASF. Representative Gorman has concerns regarding the effect that might have on her constituents in the Anthem area; and 2) Representative Gorman thinks it is going to be very difficult and a bad public image for the Commission to make any decision other than to accept that money. This amendment would allow the Commission the opportunity to respond to a private or other entity to operate the range and still have the potential to accept the City of Phoenix's bond monies even though the City of Phoenix is not an operational participant. Additionally, Representative Gorman would be happy to amend the bill and make it exclusive to the City of Phoenix and BASF, so that it wouldn't affect any other ranges.

Commissioner McLean pointed out that he hasn't seen any other amendments or language and that the bill, as currently written, is not limited to BASF and would substantially infringe upon the Commission's ability to enter into agreements with other governmental entities. Additionally, the shooting facility for law enforcement on the north side of the mountain at BASF has nothing to do with BASF. Representative Gorman's concerns on that would be between her and the City of Phoenix.

The Commission further discussed the range on the north side of BASF in that it is not a part of BASF and not Commission owned property. There is already a federal small arms range on that side of the mountain used by the prison and other law enforcement entities.

Commissioner Golightly stated for the record that the Commission has a valuable management tool that this bill jeopardizes. The Commission has embraced shooting sports and developed it to a level in the last three years that it has never had. Parks and Recreation entities and counties are increasingly seeking partnerships for recreational shooting opportunities and the Commission doesn't know at this point what some of those offers will be. This bill would severely impede the Commission's ability to form partnerships with political subdivisions.

Commissioner Gilstrap stated that even though he doesn't have the amendment in writing, his understanding was that it would not have the effect as expressed by Commissioner Golightly.

The Commission further discussed the fact that they don't have the amendment in writing, as well as what kind of precedence this bill would set for the community and surrounding areas in regards to the Commission's ability to create and run shooting facilities. The Commission further discussed some past legislative proposals where efforts were made to protect BASF. These bills included language restrictions that differed from other shooting facilities in the state.

Chairman Melton stated his concern for protecting BASF and the Commission's authority, but questioned whether or not this bill could help in the Commission's RFP decision, considering that the City of Phoenix has 3 million dollars to invest in the facility and it will be difficult for

the Commission to turn that down. However, Chairman Melton suggested that the bill may have unknown ramifications beyond what is being discussed here today.

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO OPPOSE THE STRIKE-EVERYTHING SENATE BILL 1291 AS PRESENTED TODAY, MARCH 29, 2006.

Vote: Aye – Melton, Golightly, McLean, Hernbrode
Nay – Gilstrap
Passed 4 to 1

Commissioner Gilstrap stated that he understands the Commissions concerns; however, he believes the bill, if amended, has the potential of providing some safety nets to the Commission, the Department and BASF.

Commissioner Golightly stated that his decision falls back on the Commission's purpose and why it was founded. He believes this is another attempt by the Legislature to usurp Commission authority and management ability to do their job in representing the sportsmen of the State.

In regards to the other strike-everything amendment to House Bill 2686, dealing with the off-highway vehicle (OHV) issue, Mr. Guiles briefed the Commission and stated that this bill may be offered in the Senate Finance Committee tomorrow morning by Senator Martin. This is the third version of this bill this year. The Department reviewed it this morning and it appeared to be the same as the first version except for taking out the copper sticker and law enforcement provisions. Some of the constituent groups are opposed to this and would like to come up with a different version. This bill mainly deals with State Parks and the way they spend their money. State Parks is supporting the bill.

Mr. Senn noted that the intent of the original legislation was to form a new advisory board that would take the existing authorities for making decisions on the grants on current grant money coming in through the gas tax, and move that authority from the Off-Highway Vehicle Advisory Group, which is an advisory board of the State Parks Board, to the Arizona Outdoor Recreation Coordinating Commission (AORCC). That hasn't changed, but it's the biggest hurdle because the OHV groups want that authority to stay with the current board. Also, this legislation changes some of the existing legislation for which the granting monies can be used; primarily from facilities development to trails development, which has been real problematic in trying to move some of the granting money to this state.

Mr. Guiles added that there is no appropriation included in this bill or any dedicated funding source for the programs.

Commissioner McLean asked about the impact of the bill in regards to the Department's administration and law enforcement.

Mr. Senn stated that as far as the enforcement provisions, this current bill creates things that are unlawful, but has no penalty for them. Additionally, this bill puts the responsibility of providing educational classes with State Parks.

The Commission further discussed the language in the bill and speculated on Senator Martin's objectives in supporting this bill, and the fact that OHV groups were not supporting it. The Department was not asked to participate in drafting the language for the striker and it was unknown as to who drafted it. The Commission further discussed the moving of the granting process authorities to AORCC and other various aspects.

Director Shroufe stated that AORCC is purely an advisory commission and that grants come through AORCC and then their recommendations go to the State Parks Board. It looks like they are just eliminating another advisory group, which is the OHV Advisory Board and that is why the OHV groups do not support it.

Commissioner Golightly pointed out that currently, on Apache Sitgraves National Forest, it's against the law to be off-road and the federal government enforces it. On the Coconino National Forest, it's not against the law to be off road and there is no enforcement. So how can the State go about managing federal land with a state bill that isn't in concert with federal law.

The Commission further discussed the bill and any effect it may have on the Department.

Commissioner Golightly asked about the authority of the new board which is also referenced as a commission in the bill, to which Mr. Senn stated that it is an advisory board only and the word commission really means board.

Commissioner Golightly stated that he doesn't know enough about this bill and that he doesn't understand why the Department wasn't included in discussions of bringing this bill back or how the money flow of it works, as well as getting direction from law enforcement. The Commission's concerns were not addressed in the re-writing of this bill.

Commissioner Gilstrap asked Mr. Guiles if there was time to get with Senator Martin or others to make some amendments to this bill, to which Mr. Guiles stated that the Department could make the effort to see if Senator Martin is willing to address Commission concerns.

Commissioner Golightly stated that he would like to see some law enforcement provisions in this bill and without it, he is opposed to bill.

Commissioner McLean agreed that law enforcement needed to be back in there. As it is, it does nothing for the Department.

Director Shroufe noted that another ambiguity is that the Department currently receives monies from the OHV fund to conduct education and information and this bill gives that responsibility to State Parks, so there may be a loss to the Commission in that State Parks could request that those monies go to them.

Commissioner Gilstrap asked if an MOU with State Parks could resolve that issue, to which Director Shroufe stated that it could, but it may also complicate the issue.

Chairman Melton pointed out that the language of the bill may already address those funds going to State Parks.

Motion: Gilstrap moved and McLean seconded THAT THE COMMISSION VOTE TO NEITHER SUPPORT OR OPPOSE THE BILL, BUT RATHER TO TAKE ACTION TO WORK WITH THE SPONSOR OF THE BILL TO AMEND IT TO SOMETHING THAT THE COMMISSION CAN SUPPORT.

Director Shroufe clarified that there was two components that the Commission was looking for: 1) to put the law enforcement back in, and 2) to clarify the information and education responsibilities and the funding of those responsibilities in a way that maintains Commission authority as well as those monies for education and information.

Commissioner Golightly asked Mr. Odenkirk if the two designated Commission Legislative Liaisons have the authority without any action from the Commission to support or oppose this bill based on the negotiations in amending this bill.

Mr. Odenkirk stated that the Commission has already taken a position of support on the original bill and if negotiations provide changes that are consistent with the original bill then the Commission is already on record as supporting that.

Vote: Unanimous

* * * * *

2. State and Federal Legislation

Presenter: Anthony Guiles, Legislative Liaison

Commissioner Golightly brought up for discussion an explanation received from Pete Cimallaro about why he supports HB

2127 and further read a portion of the letter from Mr. Cimallaro that stated: Another important point for legally protecting residents with the 10% cap is a quality defense that could be provided if the law and not just Commission rule were challenged. It's already been proven that a voluntarily appointed Commission in a state wildlife agency are not necessarily a team you want leading this defense. Why not bring in the experts in the area of practice and let them lead the process. Commissioner Golightly challenged Mr. Cimallaro's statements in that federal law supercedes any state laws that could exist from this bill, so there would be no challenges. The letter further stated that Commissioner Gilstrap supported HB2127.

Mr. Odenkirk confirmed that generally federal law overrules when there is a conflict with state and federal law.

Commissioner McLean stated that the Commission voted with a four person Commission, because Commissioner Gilstrap recused himself, and that it sounds like Mr. Cimallaro is criticizing the Commission and saying that the Commission is not competent.

Commissioner Gilstrap stated that he did support the legislation and then later recused himself when it became a bill.

Commissioner Golightly stated that this letter urges everyone in support of the bill to contact their legislators, so Commissioner Golightly suggested that the Commission direct the Department to revisit the reasons the Commission is opposed to the bill with all of their constituents and encourage them to contact their legislators. The Commission gave a consensus on this direction.

Commissioner Gilstrap stated that he has not weighed in on HB2127, because he respected the Commission's vote of opposition even though he supports the bill; however, he wanted to let the Commission know that he may decide to take action in support of the bill and if he does he will make it clear that he is speaking as a citizen and sportsman, representing himself in support of the bill.

Commissioner McLean stated support for Commissioner Gilstrap's right to his position, but asked him to consider the effect that it might have in the future.

Commissioner Hernbrode stated that it would be difficult to separate Mr. Gilstrap, the private person, from Mr. Gilstrap, the Commissioner, and requested that he do so as a Commissioner and as a minority of the Commission.

Commissioner Melton stated that he is also in the minority, but regardless of his personal view, he has to state the Commission's position, which is the majority.

* * * * *

Chairman Melton adjourned the meeting.

* * * * *

Meeting adjourned at 11:21 a.m.

* * * * *

Joe Melton, Chairman

Michael M. Golightly, Member

William H. McLean, Member

Robert Hernbrode, Member

W. Hays Gilstrap, Member

ATTEST:

Duane L. Shroufe
Secretary and Director